

REMARKS

Claim 1 has been amended to recite that the inert gas mixture is substantially free of carbon-containing gases. Support for this amendment is found in the as-filed specification at at least paragraphs [0021], [0025], and [0027]. Claim 1 has also been amended to recite the subject matter of claim 17, which has been canceled. Claim 4 has been amended to depend from claim 1 and to recite that the gas generant is formulated to produce at least one gaseous combustion product and at least one solid combustion product. Support for this amendment is found in the as-filed specification at at least paragraphs [0012], [0025], [0026], and [0028]. Claim 8 has been amended to depend from claim 4. Claim 14 has been amended to correct a typographical error. Withdrawn claim 26 has been amended to depend from claim 1. Claim 57 has been amended to recite that the inert gas mixture is introduced into a space to extinguish a fire. Support for this amendment is found in the as-filed specification at at least paragraph [0009]. Claim 66 has been amended to correct a grammatical error.

The Office Action mailed April 14, 2006, has been received and reviewed. Claims 1-93 are currently pending in the application, of which claims 1-25 and 57-82 are currently under examination. The Examiner indicates that claims 26-56 and 83-93 have been withdrawn from consideration as being drawn to a nonelected invention. However, as explained below, Applicants request herein the withdrawal of the Election of Species Requirement regarding claims 26-56 and 83-90. Claims 91-93 are canceled herein without prejudice to the filing of one or more divisional applications reciting the subject matter thereof.

Claims 1-25 and 57-82 stand rejected. Applicants have amended claims 1, 4, 8, 14, 26, 57, and 66, canceled claims 17 and 91-93, and respectfully request reconsideration of the application as amended herein.

Election of Species Requirement

Applicants respectfully request withdrawal of the Election of Species Requirement regarding claim 26 and the claims that depend therefrom because claim 26 has been amended to depend from claim 1. Therefore, claims 26-56 and 83-86 are allowable, *inter alia*, as depending from an allowable base claim.

In addition, claims 87-90 depend from claim 70 or claim 71, each of which depends from claim 57. Therefore, the Election of Species Requirement regarding these claims should be withdrawn.

As a result, claims 1-16 and 18-90 should be under consideration.

Supplemental Information Disclosure Statement

Please note that a Supplemental Information Disclosure Statement was filed herein on April 11, 2006, and that no copy of the PTO/SB/08A was returned with the outstanding Office Action. Applicants respectfully request that the information cited on the PTO/SB/08A be made of record herein.

35 U.S.C. § 102(b) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 6,474,684 to Ludwig *et al.*

Claims 1-5, 17, 18, and 23-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,474,684 to Ludwig *et al.* ("Ludwig"). Claim 17 has been canceled, rendering moot the rejection as to this claim. Applicants respectfully traverse the rejection as to the remaining claims, as hereinafter set forth.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Ludwig discloses a dual stage inflator for use in an air bag. Ludwig at the Abstract. The inflator includes a pressure vessel and a gas generator that produces a sufficient amount of a non-toxic, non-noxious gaseous product to inflate an airbag. *Id.* at column 5, line 60 through column 6, line 3. The gaseous product flows into and inflates the air bag. *Id.* at column 13, lines 33-35. The gas generator is ignited using an auto-ignition powder or ignition-enhancing material or charge. *Id.* at column 6, lines 58-61, column 7, lines 59-63, and column 11, lines 22-59. When ignited, the auto-ignition powder or ignition-enhancing material provides sufficient heat and

pressure to ignite the gas generator. *Id.* at column 11, lines 22-28.

Ludwig does not expressly or inherently describe each and every element of claim 1 because Ludwig does not disclose the element of “a gas generant formulated to pyrotechnically produce an inert gas mixture substantially free of carbon-containing gases.” While Ludwig discloses that gaseous products are produced upon combustion of its gas generator, Ludwig does not disclose that the gaseous products are substantially free of carbon-containing gases.

Ludwig also does not expressly or inherently describe the element of “a heat management system positioned and configured to reduce a temperature of the inert gas mixture.” The Examiner states that Ludwig discloses “a heat management system to ignite the gas generant.” *Id.* However, the Examiner does not explicitly explain what aspect of Ludwig is considered to be the heat management system. As best as Applicants can determine, the Examiner appears to consider the auto-ignition powder or ignition-enhancing charge of Ludwig to be the heat management system. However, neither the auto-ignition powder nor the ignition-enhancing charge reduces a temperature of the gaseous products produced by combustion of the gas generator of Ludwig. Instead, the auto-ignition powder or ignition-enhancing charge provides heat and pressure, which is used to ignite the gas generator. Furthermore, since the auto-ignition powder and ignition-enhancing charge are located upstream of the gas generator of Ludwig, neither of these elements reduces a temperature of the gaseous product produced by combustion of the gas generator, which necessarily can only occur downstream of the gas generator.

Since Ludwig does not expressly or inherently describe each and every element of claim 1, the anticipation rejection is improper and should be withdrawn.

Claims 2-5 are allowable, *inter alia*, as depending from an allowable base claim.

Claim 4 is further allowable because Ludwig does not expressly or inherently describe that the gas generant is formulated to produce at least one gaseous combustion product and at least one solid combustion product when combusted. Rather, the gas generator of Ludwig is a low solids formulation.

Claim 18 is further allowable because Ludwig does not expressly or inherently describe that the heat management system comprises a heat sink.

Claim 24 is further allowable because Ludwig does not expressly or inherently describe

that the at least one diffuser plate is configured and positioned to diffuse the inert gas mixture into the heat management system.

Claim 25 is further allowable because Ludwig does not expressly or inherently describe that the at least one diffuser plate is configured and positioned to disperse the inert gas mixture exiting from the fire suppression system.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Ludwig in view of U.S. Patent No. 6,093,269 to Lundstrom *et al.*

Claims 6-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of U.S. Patent No. 6,093,269 to Lundstrom *et al.* ("Lundstrom"). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for an obviousness rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The obviousness rejection of claims 6-14 is improper because the cited references do not teach or suggest all of the claim limitations.

The teachings of Ludwig are as previously described.

Lundstrom teaches a pyrotechnic gas generant composition that includes a reaction product of aminoguanidine nitrate and nitric acid. Lundstrom at column 2, lines 60-63. When combusted, the gas generant produces high gas output and minimal solid combustion products. *Id.* at column 3, lines 49-52. The gas generant includes a slag former. *Id.* at column 2, lines 54-59.

Each of claims 6-14 is a dependent claim and, therefore, includes all of the limitations of claim 1. Therefore, each of claims 6-14 includes the limitations of “a gas generant formulated to pyrotechnically produce an inert gas mixture substantially free of carbon-containing gases” and “a heat management system positioned and configured to reduce a temperature of the inert gas mixture.” The cited references, when combined, do not teach or suggest these limitations because Lundstrom does not cure the deficiencies in Ludwig. Specifically, Lundstrom does not teach or suggest the above-mentioned limitations. These limitations are also not taught or suggested by Ludwig for the reasons previously discussed. Since the cited references do not teach or suggest all of the limitations of claims 6-14, these claims are allowable, *inter alia*, as depending from an allowable base claim.

Claim 6 is further allowable because the cited references do not teach or suggest that the gas generant is formulated to produce less than an Immediately Harmful to Life or Health value of ammonia, carbon monoxide, carbon dioxide, or nitrogen oxides.

Claim 7 is further allowable because the cited references do not teach or suggest that the gas generant is formulated to produce less than 1 percent of an original weight of the gas generant in particulates or smoke.

Claim 8 is further allowable because the cited references do not teach or suggest that substantially all of the at least one gaseous combustion product forms the inert gas mixture.

Claim 10 is further allowable because the cited references do not teach or suggest that the least one solid combustion product is a slag.

Claim 11 is further allowable because the cited references do not teach or suggest that the inert gas mixture comprises nitrogen and water. The Examiner relies on column 12, line 27 of Ludwig as teaching this limitation. However, the cited section teaches that a gas generant may be a liquid, powder or granule and may be formed into a pellet, tablet, or other form.

Claim 13 is further allowable because the cited references do not teach or suggest that the gas generant is formed into a geometry that provides a neutral burn when combusted.

Obviousness Rejection Based on Ludwig in view of U.S. Patent No. 5,538,568 to Taylor *et al.* and U.S. Patent No. 5,882,036 to Moore *et al.*

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of U.S. Patent No. 5,538,568 to Taylor *et al.* (“Taylor”) and U.S. Patent No. 5,882,036 to Moore *et al.* (“Moore”). Applicants respectfully traverse this rejection, as hereinafter set forth.

The teachings of Ludwig are as previously described.

Taylor teaches a gas generant composition that includes an oxidizer and a thermoset resin. Taylor at the Abstract. The oxidizer is cupric oxide. *Id.* at column 5, lines 53-55. The gas generant composition also includes a slag modifier, such as titanium dioxide. *Id.* at column 5, lines 57-61.

Moore teaches an inflator for use in an airbag. Moore at column 1, lines 15-16. The inflator includes hexamine cobalt (III) trinitrate as a gas generant. *Id.* at column 6, lines 23-26.

Claim 15 is a dependent claim and, therefore, includes all of the limitations of claim 1. Therefore, claim 15 includes the limitations of “a gas generant formulated to pyrotechnically produce an inert gas mixture substantially free of carbon-containing gases” and “a heat management system positioned and configured to reduce a temperature of the inert gas mixture.”

The cited references, when combined, do not teach or suggest all of the limitations of claim 15 because Taylor and Moore do not cure the deficiencies in Ludwig. Specifically, Taylor and Moore do not teach or suggest the above-mentioned limitations. These limitations are also not taught or suggested by Ludwig for the reasons previously discussed. Since the cited references do not teach or suggest all of the limitations of claim 15, this claim is allowable, *inter alia*, as depending from an allowable base claim.

Claim 15 is also allowable because there is no motivation to combine to produce the claimed invention. To provide a motivation or suggestion to combine, the prior art or the knowledge of a person of ordinary skill in the art must “suggest the desirability of the combination” or provide “an objective reason to combine the teachings of the references.” M.P.E.P. § 2143.01. The fact that “the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.”

Id.

The Examiner states that “[i]t would have been obvious . . . to have made the gas generant of Ludwig et al. comprising a combination of the elements as taught by Taylor et al. and Moore et al. since Taylor et al. and Moore et al. teach such elements for forming a gas generant are known in the art and the combination of these elements would properly form a gas generant.” Office Action of April 14, 2006, p.3. This statement by the Examiner appears to suggest that the claimed invention is obvious because the individual elements are known in the art. However, this is not an objective reason that supports combination of the cited references. Applicants respectfully submit that nothing in Ludwig, Taylor, and Moore, when combined, suggests the desirability of, or provides an objective reason for, such a combination.

Obviousness Rejection Based on Ludwig in view of Taylor and U.S. Patent No. 6,481,746 to Hinshaw et al.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of Taylor and U.S. Patent No. 6,481,746 to Hinshaw *et al.* (“Hinshaw”). Applicants respectfully traverse this rejection, as hereinafter set forth.

The teachings of Ludwig and Taylor are as previously described.

Hinshaw teaches gas generating composition that includes a metal complex. Hinshaw at the Abstract. The metal complex includes a metal cation template, a neutral ligand containing nitrogen and hydrogen, and sufficient oxidizing anion to balance the charge of the complex. *Id.* The metal complex includes hexaammine cobalt(III) nitrate. *Id.* at column 3, lines 45-59. The gas generating composition also includes polyacrylamide. *Id.* at column 7, line 62 through column 8, line 7.

Claim 16 is a dependent claim and, therefore, includes all of the limitations of claim 1. Therefore, claim 16 includes the limitations of “a gas generant formulated to pyrotechnically produce an inert gas mixture substantially free of carbon-containing gases” and “a heat management system positioned and configured to reduce a temperature of the inert gas mixture.”

The cited references, when combined, do not teach or suggest all of the limitations of claim 16 because Taylor and Hinshaw do not cure the deficiencies in Ludwig. Specifically, Taylor and

Hinshaw do not teach or suggest the above-mentioned limitations. These limitations are also not taught or suggested by Ludwig for the reasons previously discussed. As such, the cited references do not teach or suggest all of the limitations of claim 16. Therefore, claim 16 is allowable, *inter alia*, as depending from an allowable base claim.

Claim 16 is also allowable because there is no motivation to combine to produce the claimed invention. The Examiner states “[i]t would have been obvious . . . to have made the gas generant of Ludwig et al. comprising a combination of the elements as taught by Taylor et al. and Hinshaw et al. since Taylor et al. and Hinshaw et al. teach such elements for forming a gas generant are known in the art and the combination of these elements would properly form a gas generant.” Office Action of April 14, 2006, p.4. This statement by the Examiner appears to suggest that the claimed invention is obvious merely because the individual elements are known in the art. However, this is not an objective reason that supports combination of the cited references to establish a *prima facie* case of obviousness. Applicants respectfully submit that nothing in Ludwig, Taylor, and Hinshaw, when combined, suggests the desirability of, or provides an objective reason for, such a combination.

Obviousness Rejection Based on Ludwig in view of U.S. Patent No. 5,739,460 to Knowlton *et al.*

Claims 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of U.S. Patent No. 5,739,460 to Knowlton *et al.* (“Knowlton”). Applicants respectfully traverse this rejection, as hereinafter set forth.

The teachings of Ludwig are as previously described.

Knowlton teaches an autoignition composition that is used to ignite a main pyrotechnic composition charge. Knowlton at the Abstract. The autoignition composition includes an oxidizer, such as a nitrate of an alkali metal or alkaline earth metal, and a powdered metal fuel. *Id.* at column 2, lines 44-55, and column 6, line 66 through column 7, line 19.

Claims 19-21 are dependent claims and, therefore, include all of the limitations of claim 1. Therefore, claims 19-21 include the limitations of “a gas generant formulated to pyrotechnically produce an inert gas mixture substantially free of carbon-containing gases” and

“a heat management system positioned and configured to reduce a temperature of the inert gas mixture.” The cited references, when combined, do not teach or suggest all of the limitations of claims 19-21 because Knowlton does not cure the deficiencies in Ludwig. Specifically, Knowlton does not teach or suggest the above-mentioned limitations. These limitations are also not taught or suggested by Ludwig for the reasons previously discussed. Since the cited references do not teach or suggest all of the limitations of claims 19-21, these claims are allowable, *inter alia*, as depending from an allowable base claim.

Claim 19 is further allowable because the cited references do not teach or suggest that the heat management system comprises a phase change material.

Claim 20 is further allowable because the cited references do not teach or suggest that the phase change material comprises lithium nitrate, sodium nitrate, potassium nitrate, or mixtures thereof. Rather, the lithium nitrate, sodium nitrate, and potassium nitrate are used as oxidizers in Knowlton.

Claim 21 is further allowable because the cited references do not teach or suggest that the fire suppression system is configured to transfer heat from the inert gas mixture to the phase change material.

These claims are also allowable because there is no motivation to combine to produce the claimed invention. The Examiner states “[i]t would have been obvious . . . to have included into the gas generant of Ludwig et al. a phase change material comprising the various nitrates as recited in order to manage the heat.” Office Action of April 14, 2006, p. 4. However, nothing in Ludwig or Knowlton, when combined, suggests the desirability of, or provides an objective reason for, using a phase change material as recited in claim 19 and 21. As such, the cited references necessarily do not suggest the desirability of, or provide an objective reason for, using one of the nitrates recited in claim 20.

Obviousness Rejection Based on Ludwig

Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig. Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 22 is a dependent claim and, therefore, include all of the limitations of claim 1.

Therefore, claim 22 includes the limitations of “a gas generant formulated to pyrotechnically produce an inert gas mixture substantially free of carbon-containing gases” and “a heat management system positioned and configured to reduce a temperature of the inert gas mixture.” Ludwig does not teach or suggest the above-mentioned limitations for the reasons previously discussed. As such, Ludwig does not teach or suggest all of the limitations of claim 22 and, therefore, claim 22 is allowable, *inter alia*, as depending from an allowable base claim.

Claim 22 is further allowable because Ludwig does not teach or suggest that the fire suppression system is configured to disperse the inert gas mixture therefrom within from approximately 20 seconds to approximately 60 seconds after ignition of the gas generant.

Obviousness Rejection Based on Ludwig in view of Lundstrom

Claims 57-65 and 72-82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of Lundstrom. Applicants respectfully traverse this rejection, as hereinafter set forth.

The teachings of Ludwig and Lundstrom are as previously described.

The cited references do not teach or suggest all of the limitations of claim 57 because they do not teach or suggest “introducing the inert gas mixture into a space to extinguish a fire.” The Examiner states that the gas generant of Ludwig can be used in a fire suppression system but has provided no support for this assertion. Office Action of April 14, 2006, p. 5. Applicants respectfully submit that nothing in Ludwig suggests that its gas generant can be used in a fire suppression system. Rather, the teachings of Ludwig are limited to using the gas generant to inflate an airbag. Lundstrom also does not teach or suggest this limitation.

The cited references also do not provide a motivation to combine to produce the claimed invention. Even if the cited references were combined, the claimed invention would not be produced because the above-mentioned limitation would not be taught or suggested.

Claims 58-65 and 72-78 are allowable, *inter alia*, as depending from an allowable base claim, namely claim 57.

Claim 59 is further allowable because the cited references do not teach or suggest igniting the gas generant to produce nitrogen and water. The Examiner relies on column 12, line 27 of

Ludwig as teaching this limitation. However, the cited section teaches that a gas generant may be formed into a pellet, tablet, or other form.

Claim 62 is further allowable because the cited references do not teach or suggest generating gaseous combustion products within from approximately 20 seconds to approximately 60 seconds after ignition of the gas generant.

Claim 63 is further allowable because the cited references do not teach or suggest producing gaseous combustion products that are substantially free of carbon-containing gases or nitrogen oxides.

Claim 64 is further allowable because the cited references do not teach or suggest producing a neutral burn of the gas generant.

Claim 72 is further allowable because the cited references do not teach or suggest dispersing the inert gas mixture into the space within from approximately 20 seconds to approximately 60 seconds after ignition of the gas generant.

Claim 73 is further allowable because the cited references do not teach or suggest reducing a temperature of the inert gas mixture after combustion of the gas generant.

Claim 74 is further allowable because the cited references do not teach or suggest exposing the inert gas mixture to a heat management system.

Claim 75 is further allowable because the cited references do not teach or suggest flowing the inert gas mixture into a heat sink.

Claim 76 is further allowable because the cited references do not teach or suggest flowing the inert gas mixture over a phase change material.

Claim 77 is further allowable because the cited references do not teach or suggest extinguishing the fire by reducing an oxygen content in the space.

Claim 78 is further allowable because the cited references do not teach or suggest reducing the oxygen content in the space to approximately 13% by volume.

Applicants note that claims 79 and 80 depend on claim 15 and claims 81 and 82 depend on claim 16. Each of claims 15 and 16 depends on claim 1. Therefore, Applicants believe that the Examiner has incorrectly included claims 79-82 in the instant rejection. However, Applicants provide herein reasons for the non-obviousness of these claims in light of the cited references.

Claims 79-82 are allowable, *inter alia*, as depending indirectly from an allowable base claim, namely claim 1.

Claims 79 and 81 are further allowable because the cited references do not teach or suggest that the hexa(ammine)cobalt(III)-nitrate is recrystallized.

Claims 80 and 82 are further allowable because the cited references do not teach or suggest that the hexa(ammine)cobalt(III)-nitrate comprises less than approximately 0.1% of activated charcoal or carbon.

Applicants also note that withdrawn claims 87-90 depend on claim 70 or 71, each of which depends on claim 57. As such, claims 87-90 are allowable, *inter alia*, as depending indirectly from an allowable base claim, namely claim 57.

Claims 87 and 89 are further allowable for the same reasons as claims 79 and 81.

Claims 88 and 90 are further allowable for the same reasons as claims 80 and 82.

Obviousness Rejection Based on Ludwig in view of Lundstrom as applied to claim 65 above, and further in view of Knowlton

Claims 66-69 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of Lundstrom as applied to claim 65 above, and further in view of Knowlton. Applicants respectfully traverse this rejection, as hereinafter set forth.

The teachings of Ludwig, Lundstrom, and Knowlton are as previously described.

Claims 66-69 are dependent claims and, therefore, include all of the limitations of claim 57. Therefore, claims 66-69 include the limitation of “introducing the inert gas mixture into a space to extinguish a fire.” Ludwig and Lundstrom do not teach or suggest the above-mentioned limitation for the reasons previously discussed. Knowlton also does not teach or suggest this limitation because the teachings of Knowlton are limited to an autoignition composition. Therefore, Knowlton does not cure the deficiencies in Ludwig and Lundstrom. Since the cited references do not teach or suggest all of the limitations of claims 66-69, claims 66-69 are allowable, *inter alia*, as depending from an allowable base claim.

Obviousness Rejection Based on Ludwig in view of Lundstrom and further in view of Taylor and Hinshaw

Claims 70 and 71 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludwig in view of Lundstrom and further in view of Taylor and Hinshaw. Applicants respectfully traverse this rejection, as hereinafter set forth.

The teachings of Ludwig, Lundstrom, Taylor, and Hinshaw are as previously described.

Claims 70 and 71 are dependent claims and, therefore, include all of the limitations of claim 57. Therefore, these claims include the limitation of “introducing the inert gas mixture into a space to extinguish a fire.” Ludwig and Lundstrom do not teach or suggest this limitation for the reasons previously discussed. Taylor and Hinshaw also do not teach or suggest this limitation because their teachings are limited to gas generant compositions for use in airbags. Therefore, Taylor and Hinshaw do not cure the deficiencies in Ludwig and Lundstrom. Since the cited references do not teach or suggest all of the limitations of claims 70 and 71, claims 70 and 71 are allowable, *inter alia*, as depending from an allowable base claim.

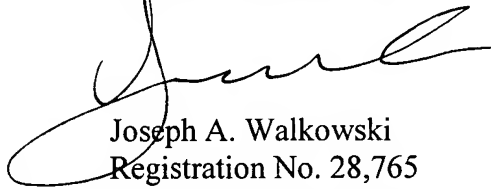
ENTRY OF AMENDMENTS

The amendments to claims 1, 4, 8, 14, 26, 57, and 66 should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add new matter to the application.

CONCLUSION

Claims 1-16 and 18-90 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain that might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Walkowski', is written over the typed name and address.

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